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Chief Clerk of the House

FILED MAR 09 2005

By: Robert R. Puente

H.B. No. 2432

A BILL TO BE ENTITLED

AN ACT

relating to the plugging of abandoned or deteriorated water wells.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1901.053(a), Occupations Code, is amended to read as follows:

(a) Except as provided by Section 1901.258, the ~~[The]~~ department shall deposit money collected under this chapter to the credit of the water well drillers account in the general revenue fund. Money deposited in that account under this section may be used only to administer this chapter.

SECTION 2. Section 1901.101(b), Occupations Code, is amended to read as follows:

(b) One member appointed under Subsection (a)(1) must be selected from the state at large and the remaining five driller members must be selected from each of the following geographic areas of the state, as defined by department rule:

- (1) Gulf Coast area;
- (2) Trans-Pecos area;
- (3) Central Texas area;
- (4) Northeast Texas area; and
- (5) Panhandle-South Plains area.

SECTION 3. Subchapter F, Chapter 1901, Occupations Code, is amended by adding Section 1901.258 to read as follows:

Sec. 1901.258. WATER WELL PLUGGING ACCOUNT. (a) The

1 department may assess a fee for each well drilled in an amount  
2 determined by department rule for the purpose of plugging abandoned  
3 or deteriorated wells.

4 (b) The department shall deposit a fee assessed under this  
5 section to the credit of the water well plugging account. The water  
6 well plugging account is an account in the general revenue fund that  
7 may be appropriated to the department only for the purpose of  
8 plugging abandoned or deteriorated wells. The account is exempt  
9 from the application of Section 403.095, Government Code.

10 (c) The account consists of five subaccounts corresponding  
11 to the geographic areas described in Section 1901.101(b). The fee  
12 for each well drilled in a geographic area shall be deposited to the  
13 credit of the subaccount established for that geographic area.  
14 Fees in a subaccount may be used only to pay:

15 (1) the administrative costs of the department;

16 (2) the costs of plugging high priority or hazardous  
17 wells, as defined by department rule, located anywhere in the  
18 state; and

19 (3) the costs of plugging wells, other than high  
20 priority or hazardous wells, located in the geographic service area  
21 for which the subaccount was established.

22 (d) The department may allocate not more than:

23 (1) 20 percent of the money in the account to pay the  
24 administrative costs of the department; and

25 (2) 10 percent of the money in the account to pay the  
26 costs of plugging high priority or hazardous wells.

27 (e) The department may use money in the account to plug an

1 abandoned or deteriorated well only if the department determines  
2 that the landowner or other person possessing the well:

3 (1) cannot be located; or

4 (2) does not have sufficient assets to plug the well as  
5 determined by criteria established by department rule.

6 (f) The department may transfer money in a subaccount to a  
7 groundwater conservation district to be used by the district to  
8 plug one or more abandoned or deteriorated wells designated by the  
9 department if the department is entitled to use money in that  
10 subaccount to plug those wells. From the money transferred, the  
11 district may allocate not more than \$50 for each well to pay the  
12 district's administrative costs.

13 SECTION 4. The fee authorized by Section 1901.258,  
14 Occupations Code, as added by this Act, applies only to a water well  
15 for which initial drilling operations begin on or after the  
16 effective date of the rules adopted by the Texas Department of  
17 Licensing and Regulation providing for the assessment of the fee.

18 SECTION 5. This Act takes effect immediately if it receives  
19 a vote of two-thirds of all the members elected to each house, as  
20 provided by Section 39, Article III, Texas Constitution. If this  
21 Act does not receive the vote necessary for immediate effect, this  
22 Act takes effect September 1, 2005.

# HOUSE COMMITTEE REPORT

1<sup>st</sup> Printing

By: Puente

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- (1) Gulf Coast area;
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5 section to the credit of the water well plugging account. The water  
6 well plugging account is an account in the general revenue fund that  
7 may be appropriated to the department only for the purpose of  
8 plugging abandoned or deteriorated wells. The account is exempt  
9 from the application of Section 403.095, Government Code.

10 (c) The account consists of five subaccounts corresponding  
11 to the geographic areas described in Section 1901.101(b). The fee  
12 for each well drilled in a geographic area shall be deposited to the  
13 credit of the subaccount established for that geographic area.  
14 Fees in a subaccount may be used only to pay:

15 (1) the administrative costs of the department;

16 (2) the costs of plugging high priority or hazardous  
17 wells, as defined by department rule, located anywhere in the  
18 state; and

19 (3) the costs of plugging wells, other than high  
20 priority or hazardous wells, located in the geographic service area  
21 for which the subaccount was established.

22 (d) The department may allocate not more than:

23 (1) 20 percent of the money in the account to pay the  
24 administrative costs of the department; and

25 (2) 10 percent of the money in the account to pay the  
26 costs of plugging high priority or hazardous wells.

27 (e) The department may use money in the account to plug an

abandoned or deteriorated well only if the department determines that the landowner or other person possessing the well:

(1) cannot be located; or

(2) does not have sufficient assets to plug the well as determined by criteria established by department rule.

(f) The department may transfer money in a subaccount to a groundwater conservation district to be used by the district to plug one or more abandoned or deteriorated wells designated by the department if the department is entitled to use money in that subaccount to plug those wells. From the money transferred, the district may allocate not more than \$50 for each well to pay the district's administrative costs.

SECTION 4. The fee authorized by Section 1901.258, Occupations Code, as added by this Act, applies only to a water well for which initial drilling operations begin on or after the effective date of the rules adopted by the Texas Department of Licensing and Regulation providing for the assessment of the fee.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

4/20/05  
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES

to whom was referred HB 2432 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair				X
Bonnen	X			
Campbell				X
Geren	X			
Hardcastle	X			
Hilderbran	X			
Hope	X			
Laney	X			

Total      7 aye  
                 0 nay  
                 0 present, not voting  
                 2 absent

Al H. Mat  
CHAIR

## **BILL ANALYSIS**

H.B. 2432  
By: Puente  
Natural Resources  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Abandoned or deteriorated water wells pose a threat to groundwater resources. Open wells allow contaminants to move through the well and enter an aquifer with no natural filtration by soils or geologic strata and may also allow water from deep aquifers that have a high salt content to contaminate shallow, fresh water aquifers. According to the 2000 interim report to the 77th Legislature by the House Committee on Natural Resources, an estimated 150,000 water wells drilled since 1965 are abandoned or deteriorated. Under current law, landowners or other persons who possess an abandoned or deteriorated well are required to plug or cap the well, but current law does not provide for the plugging of the wells when the landowner cannot be located or does not have sufficient funds. H.B. 2432 creates a water well plugging account and authorizes the Texas Department of Licensing and Regulation (the department) to assess a fee for each new well and to deposit that fee in the account.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Licensing and Regulation in SECTION 2 (Section 1901.101(b), Occupations Code) and SECTION 3 (Section 1901.258, Subchapter F, Occupations Code) of this bill.

### **ANALYSIS**

H.B. 2432 establishes the Water Well Plugging Account in the Occupations Code to be administered by the department. The legislation authorizes the department to assess a fee for each water well drilled in an amount determined by department rule and provides that the fee only applies to water wells for which the initial drilling operations begin on or after the date the department adopts these rules. The bill requires the department to deposit the fee to the credit of the water well plugging account (account), an account in the general revenue fund, that may be appropriated to the department only for the purpose of plugging abandoned or deteriorated wells. The account consists of five subaccounts corresponding to the five geographic areas established by department rule in SECTION 2 of the bill. The bill establishes that the fee shall be collected by geographic area and the fee for each well drilled in a geographic area shall be deposited to the credit of the subaccount established for that geographic area.

The bill prohibits the department from allocating more than 20 percent of the money in the subaccounts for administrative expenses of the department and designates 10 percent of the fee money in the account specifically for plugging high hazardous or high priority water wells anywhere in the state. The costs of plugging wells which are not high priority or hazardous must be billed only to the subaccount for the corresponding geographic area.

The bill authorizes the department to use the money in the account to plug an abandoned or deteriorated water well only if the department determines that the landowner or other person possessing the well cannot be located or does not have sufficient funds to plug the well as determined by criteria established by department rule. The bill provides that the account is exempt from provisions relating to Section 403.095, Government Code.

H.B. 2432 also authorizes the department to transfer money to a groundwater conservation district (the district) to be used to plug abandoned or deteriorated wells that the department would be authorized to plug. Money allocated to the district may not exceed \$50 per well for administrative costs of the district.



**EFFECTIVE DATE**

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

## SUMMARY OF COMMITTEE ACTION

HB 2432

April 18, 2005          2:00PM      or upon final adjourn./recess

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Considered in public hearing

Testimony taken in committee (See attached witness list.)

Left pending in committee

April 20, 2005                      upon final adjourn./recess

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Considered in formal meeting

Reported favorably without amendment(s)

3  
x

WITNESS LIST

HB 2432  
HOUSE COMMITTEE REPORT  
Natural Resources Committee

April 18, 2005 - 2:00PM or upon final adjourn./recess  
For: Halty, Scott (San Antonio Water System)

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION**

**April 18, 2005**

**TO:** Honorable Robert Puente, Chair, House Committee on Natural Resources

**FROM:** John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: HB2432** by Puente (Relating to the plugging of abandoned or deteriorated water wells.), As Introduced

**Estimated Two-year Net Impact to General Revenue Related Funds for HB2432, As Introduced:** an impact of \$0 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2006	\$0
2007	\$0
2008	\$0
2009	\$0
2010	\$0

**All Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from New General Revenue Dedicated-Water Well Plugging</b>	<b>Probable Revenue Gain/ (Loss) from New General Revenue Dedicated-Water Well Plugging</b>	<b>Change in Number of State Employees from FY 2003</b>
2006	(\$426,608)	\$426,608	3.0
2007	(\$1,171,508)	\$1,171,508	3.0
2008	(\$1,171,508)	\$1,171,508	3.0
2009	(\$917,758)	\$917,758	3.0
2010	(\$917,758)	\$917,758	3.0

**Fiscal Analysis**

The bill would authorize a fee on new water wells for the purpose of plugging abandoned and deteriorated water wells. Revenue would be deposited into a new, General Revenue Dedicated Account - Water Well Plugging. The Department of Licensing and Regulation (TDLR) would set the fee by rule. The bill would limit administrative costs associated with the program to no more than 20 percent of the fee revenue.

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds

consolidation review by the current Legislature.

The bill would take effect immediately upon enactment if it receives a two-thirds majority vote in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

### **Methodology**

TDLR indicates the need for three additional full-time equivalents (FTEs). One Natural Resource Specialist IV (at \$45,312 per year) would be needed to investigate abandoned well reports and to evaluate bids and plugging specifications for abandoned or deteriorated wells in areas without Ground Water Districts. One Administrative Technician IV (at \$35,424 per year) would be needed to process quarterly payments from water well drillers. One Administrative Technician III (at \$31,356 per year) would be needed to issue and mail quarterly bills to water well drillers. Total costs associated with the three FTEs would be \$171,028 in fiscal year 2006 and \$152,928 in each following fiscal year.

TDLR estimates \$255,580 in fiscal year 2006, \$1,018,580 in fiscal years 2007 and 2008, and \$764,830 in fiscal years 2009 and 2010 would be needed to cover costs associated with plugging abandoned or deteriorated wells. TDLR, with the assistance of Ground Water Districts, would plug 100 wells in fiscal year 2006, 400 wells in fiscal years 2007 and 2008, and 300 wells in fiscal years 2009 and 2010.

It is assumed that TDLR would adjust fees to offset any costs associated with implementing provisions of the bill.

### **Technology**

Computers and software would be needed for the additional three FTEs totaling \$7,000 in fiscal year 2006. Also, approximately 18,000 water well reports would need to be imaged at a cost of \$1,080 each year.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 452 Department of Licensing and Regulation, 455 Railroad Commission, 304 Comptroller of Public Accounts

**LBB Staff:** JOB, WK, MW, RR, KJG, CL, RT, RB

2432

Robert R Premele

**relating to the plugging of abandoned or deteriorated water wells.**

MAR 09 2005

Filed with the Chief Clerk

MAR 1 5 2005

Read first time and referred to Committee on Natural Resources

APR 20 2005

Reported \_\_\_\_ favorably (\_\_\_\_)  
(a\_\_\_\_)

MAY 02 2005

Sent to Committee on (Calendars)

([REDACTED]S)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

**OTHER HOUSE ACTION:**

Received from the House

Read and referred to Committee on

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

### Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Read third time, \_\_\_\_\_, and passed by a (viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

## Returned to the House

SECRETARY OF THE SENATE

**OTHER SENATE ACTION:**

\_\_\_\_\_ Returned from the Senate (as substituted)  
(with amendments)

\_\_\_\_\_ House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)

05 APR 29 PM 5:41  
HOUSE OF REPRESENTATIVES